

BEFORE THE STATE TAX APPEAL BOARD  
OF THE STATE OF MONTANA

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MARVIN L. & EDITH C. McDONALD	)	DOCKET NO.: PT-1998-1
	)	
Appellant,	)	
	)	
-vs-	)	
	)	
THE DEPARTMENT OF REVENUE OF	)	FINDINGS OF FACT,
THE STATE OF MONTANA	)	CONCLUSIONS OF LAW,
	)	ORDER and OPPORTUNITY
Respondent.	)	<u>FOR JUDICIAL REVIEW</u>

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The above-entitled appeal was heard on April 21, 1999, in the City of Great Falls, in accordance with an order of the State Tax Appeal Board of the State of Montana (the Board). The notice of the hearing was given as required by law.

The taxpayers, Marvin and Edith McDonald, presented testimony in support of the appeal. The Department of Revenue (DOR), represented by appraiser Joan Vining, presented testimony in opposition to the appeal. Testimony was presented and exhibits were received. The Board then took the appeal under advisement; and the Board having fully considered the testimony, exhibits and all things and matters

presented to it by all parties, finds and concludes as follows:

#### FINDINGS OF FACT

1. Due, proper and sufficient notice was given of this matter, the hearing, and of the time and place of the hearing. All parties were afforded opportunity to present evidence, oral and documentary.

2. The property subject of this appeal is described as follows:

Lot 1, Block 8, 5th Part 1 North Riverview Terrace Addition, with a street address of 801 Sacajawea Drive, City of Great Falls, County of Cascade, State of Montana and improvements located thereon. (Assessor Code - 1429700).

3. For the 1998 tax year, the DOR appraised the subject property at value of \$14,784 for the land and \$68,316 for the improvements.

4. The taxpayer appealed to the Cascade County Tax Appeal Board on March 26, 1998 requesting a reduction in value to \$5,000 for the land and \$22,000 for the improvements, stating:

*Paid \$21,500 for home and lot in 1970. I am retired now and cannot afford a home you say is taxed on \$74,671. My income would not qualify me for a loan of \$74,671. Lot is odd-shaped and busy streets front and rear. No back yard privacy.*

A supplement to his appeal form stated the following additional reasons for his appeal:

*View blocked by high profile church across the*

street. During church activities cars parked in front of my house. Busy streets, 8th St. NE on one side and Sacajawea Drive on the other side of my house. Over 300 feet of sidewalk to maintain. This property should be taxed on what I paid for it in 1970 plus some small improvements I have made. Property would be difficult and expensive to have a privacy fence built. When my wife terminates her employment in Feb. 1999 our income will drop from \$32,000 to \$15,000 per year.

5. In its June 25, 1998 decision, the county board upheld the Department of Revenue's values for the land and the improvements, stating:

*After hearing testimony and reviewing exhibits, the Board feels the values set by the Dept. of Revenue of \$14,784.00 for land and \$68,316.00 for buildings accurately reflects the market value of the property. This appeal is disapproved.*

6. The taxpayer then appealed that decision to this Board on July 3, 1998, stating:

*The Board did not and would not inspect the property in question. The Board relied solely on the appraisers (sic) facts and figures and the comparisons were not similar to my lot configuration.*

7. The values before this Board are the values determined by the Cascade County Tax Appeal Board.

8. The taxpayer resides on the property.

#### TAXPAYER'S CONTENTIONS

Mr. McDonald stated that he wanted to change the value he was requesting from \$5,000 to \$10,000 on the land and from \$22,000 to \$60,000 on the improvements.

Taxpayers' Exhibit 1 consists of 10 photographs of

various views of the subject property to demonstrate the obstruction of the McDonalds' view by the church across the street, landscape erosion and drainage problems, and the difficulty of parking on 8th Street NE due to heavy traffic.

Taxpayers' Exhibit 2 is a 3-page document explaining their objections to the appraiser's property comparisons, and a sketch of the lot and improvements.

Mr. McDonald stated that he had paid \$22,500 for the house and lot in 1970. He and his wife are now retired with a total annual income of \$13,500 which would not qualify them to purchase a home valued at over \$80,000. Because their odd-shaped lot is bordered by two streets with heavy traffic, they are unable to park on the street, and they can't put up a privacy fence so are "at the mercy of school children and dogs".

Mr. McDonald further states in his Exhibit 2: "In the winter the snow plow pushes the snow on the sidewalk making it impossible to remove. There is soil blown up on my lawn from Sacajawea Park that has ruined the appearance of my landscaping. My lawn has elevated almost twelve inches because of this. The view to the south of my property is blocked by a tall church building... my land has no alleyway so access and off street parking is limited. My lot size, location and configuration are very undesirable and the value should be

reduced."

At the time the McDonalds purchased their home, it was convenient for their children to attend the nearby neighborhood school so they were not concerned with the location, the view-obstructing church, and the triangular lot fronting on busy streets. Now, in addition to the taxpayers' problems with the location of the lot, Mr. McDonald states that their house is old and needs new paint and more insulation.

Mr. McDonald felt that the comparable properties used by the DOR were not comparable because they were located on standard rather than irregular-shaped lots.

#### DOR'S CONTENTIONS

DOR's Exhibit A is the CALP (Computer Assisted Land Pricing) Model for the subject property. Ms. Vining explained to the taxpayers that their property is located in neighborhood 5D, the Riverview area. Vacant lots in neighborhood 5D that had sold were used to value the other lots in that neighborhood.

Exhibit A listed 10 lots in neighborhood 5D that had sold between December 1992 and October 1995. The lot base size is 8,400 square feet, the base rate is \$1.50 per square foot and the adjusted rate is \$0.91 per square foot. The front foot base size is 70 x 120 with a base rate of \$180 per front foot and an adjusted rate of \$120 per front foot.

Ms. Vining stated that the subject lot was valued on

a square foot unit of comparison because of the irregular shape. Its value would be higher if it were valued on a front foot basis. The subject lot is 10,800 square feet with the first 8,400 square feet valued at \$1.50 per square foot for a total of \$12,600, the remaining 2,400 square feet valued at \$0.91 per square foot for a total of \$2,184; and the total lot value is \$14,784.

DOR's Exhibit B is the property record card for the subject property and the Montana Comparable Sales Sheet. The property record card is summarized as follows:

**Year Built - 1965**  
**Effective Year - 1975**  
**Physical Condition - Average**  
**Quality Grade - Average**  
**Condition/Desirability/Utility (CDU) - Good**  
**Living Area - 1144 square feet**  
**Percent good - 82% (depreciation - 18%)**  
**Economic Condition Factor (ECF) - 110%**  
**Other improvements - Enclosed porch, garage, driveway**  
**Market value (land & improvements) - \$83,100**

The comparable sales consist of five properties in the taxpayers' neighborhood 5D with sales dates between May 1995 and July 1995. The comparability ratings range from 10 to 36 (under 100 is good comparability according to the DOR's Book of General Evidence,) and the field control code is 1 (for properties less than \$100,000, a field code of 3 or less is considered reasonable according to the Book of General Evidence). These ratings indicate that only minor adjustments

were made to the properties to have them be comparable to the subject property. The following table summarizes the information contained on the comparable sales sheet:

	<u>Comp #1</u>	<u>Comp #2</u>	<u>Comp #3</u>	<u>Comp #4</u>	<u>Comp #5</u>
Year Built	1963	1968	1965	1960	1977
Eff.Year	1975	1980	1980	1970	1980
Qual.Grade	Average	Average	Average	Average	Average
CDU	Good	Good	Good	Good	Good
Lvng. Area	1144 sf	1144 sf	1144 sf	1136 sf	1196 sf
% Good	82%	86%	86%	80%	86%
Sale Date	7/95	6/95	5/95	5/95	5/95
Sale Price	\$89,900	\$89,000	\$86,000	\$86,950	\$81,000
Adj.Sale Pr.	\$81,259	\$86,143	\$85,326	\$80,831	\$79,329
Comparability	10	28	35	35	36

#### BOARD'S DISCUSSION

The taxpayer had disputed the comparability of the five properties on the Montana Comparable Sales Sheet because the lots are standard size while his lot is irregularly shaped. Taxpayer's Exhibit 2 states: "The size, shape, and configuration of my lot cannot be compared to the land that Mrs. Vining used as comparison."

Ms. Vining explained that the comparables were used to value the improvements only, as the land was valued using the CALP Model. However, the comparability of the land values on the five properties listed on the Montana Comparable Sales Sheet is demonstrated by the following:

The subject property is shown on the comparable sales sheet as .24 acres or 10,454.40 square feet. 10,454.40 divided

by \$14,784 (the value of the taxpayers' land) equals **\$1.41** a square foot. If the same calculation is applied to the comparable properties, the value per square foot of the land on each property is as follows:

Comparable #1	\$1.48 per square foot
Comparable #2	\$1.41 per square foot
Comparable #3	\$1.38 per square foot
Comparable #4	\$1.59 per square foot
Comparable #5	\$1.58 per square foot

The appeal of the taxpayer is hereby denied and the decision of the Cascade County Tax Appeal Board is affirmed.

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### CONCLUSIONS OF LAW

1. The State Tax Appeal Board has jurisdiction over this matter. **§15-2-301 MCA.**

2. **§15-8-111, MCA. Assessment - market value standard - exceptions.** (1) All taxable property must be assessed at 100% of its market value except as otherwise provided.

3. **15-2-301, MCA, Appeal of county tax appeal board decisions.** (4) In connection with any appeal under this section, the state board is not bound by common law and statutory rules of evidence or rules of discovery and may affirm, reverse, or modify any decision.

4. It is true, as a general rule, that the appraisal of the Department of Revenue is presumed to be correct and that the taxpayer must overcome this presumption. The Department of Revenue should, however, bear a certain burden of providing documented evidence to support its assessed values. (Western Airlines, Inc., v. Catherine Michunovich et al., 149 Mont. 347, 428 P.2d 3, (1967)).

5. The Board finds that the evidence presented by the Department of Revenue supported the value determined.

ORDER

IT IS THEREFORE ORDERED by the State Tax Appeal Board of the State of Montana that the subject property shall be entered on the tax rolls of Cascade County by the Assessor of that county at the 1997 tax year values of \$14,784 for the land and 68,316 for the improvements as determined by the Department of Revenue. The appeal of the taxpayer is therefore denied and the decision of the Cascade County Tax Appeal Board is affirmed.

Dated this 3rd day of May, 1999.

BY ORDER OF THE  
STATE TAX APPEAL BOARD

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GREGORY A. THORNQUIST, Chairman

( S E A L )

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JAN BROWN, Member

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JEREANN NELSON, Member

NOTICE: You are entitled to judicial review of this Order in accordance with Section 15-2-303(2), MCA. Judicial review may be obtained by filing a petition in district court within 60 days following the service of this Order.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 3rd day of May, 1999, the foregoing Order of the Board was served on the parties hereto by depositing a copy thereof in the U.S. Mails, postage prepaid, addressed to the parties as follows:

Marvin & Edith McDonald  
801 Sacajawea Drive  
Great Falls, Montana 59404

Office of Legal Affairs  
Department of Revenue  
Mitchell Building  
Helena, Montana 59620

Appraisal Office  
Cascade County  
300 Central Avenue  
Suite 520  
Great Falls, Montana 59401

Nick Lazanas  
Cascade County Tax Appeal Board  
Courthouse Annex  
Great Falls, Montana 59401

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DONNA EUBANK  
Paralegal